

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MINERAL RESOURCES, LLC
Employer

and

Case 20-RC-125608

OPERATING ENGINEERS LOCAL
UNION 3, INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO
Petitioner

ORDER

On May 2, 2014, the Acting Regional Director issued a Decision and Direction of Election finding that the Employer failed to meet its burden to demonstrate that Day Shift Leadpersons, including Carey Neely and James Doering, are supervisors within the meaning of Section 2(11) of the Act. The Acting Regional Director further found that the record was insufficient to determine the supervisory status of Doering in his current role as Evening Shift Supervisor, and therefore permitted Doering to vote subject to challenge. The Acting Regional Director also found that dismissal of the petition was not warranted because of alleged prounion supervisory conduct. The Employer filed a timely request for review of the Acting Regional Director's findings.

While the request for review was pending, the Regional Director administratively advised the Board that: (1) in the course of investigating an unfair labor practice charge in Case 20-CA-125798 concerning the discharge of Neely, the Regional Director determined that Neely was a statutory supervisor at the time he was discharged;¹ (2) Doering did not vote in the election² and is no longer employed in the unit; (3) the Employer filed objections to the election alleging, among other things, prounion supervisory conduct by Neely; and (4) the Region will hold a hearing on the Employer's objections concerning the conduct of Neely.

¹ On October 27, 2014, the General Counsel, Office of Appeals, denied the Petitioner's appeal of the Regional Director's determination that Neely is a statutory supervisor.

² Following the mail ballot election, the ballots were opened and counted on June 16, 2014. The tally showed six votes in favor of the Petitioner, five against, and three determinative challenged ballots. Pursuant to waivers of ballot secrecy, on July 18, 2014, the Region opened the three challenged ballots. The result showed that the Petitioner received a majority of the votes regardless of the ultimate disposition of the challenges.

In view of the events that occurred while the request for review was pending, the request for review is denied. The case is remanded to the Regional Director for further appropriate action.

Dated, Washington, D.C., February 11, 2015

MARK GASTON PEARCE, CHAIRMAN

KENT Y. HIROZAWA, MEMBER

LAUREN McFERRAN, MEMBER,